

APPEAL NO. 021694
FILED AUGUST 22, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on June 12, 2002. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury on _____, and thus did not have resulting disability. The claimant appealed on sufficiency grounds, seeking reversal, and the respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The claimant attached some documents to her request for review that were not admitted into evidence at the CCH. First, we note that we will not generally consider evidence not submitted into the record, and raised for the first time on appeal. Texas Workers' Compensation Commission Appeal No. 92255, decided July 27, 1992. To determine whether evidence offered for the first time on appeal requires that case be remanded for further consideration, we consider whether it came to appellant's knowledge after the hearing, whether it is cumulative, whether it was through lack of diligence that it was not offered at the hearing, and whether it is so material that it would probably produce a different result. Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ). The attached evidence, which was not admitted into evidence at the CCH, does not meet these criteria.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury, with a date of injury of _____. The hearing officer determined that the claimant's testimony was not credible or consistent, and that the medical records do not show objective evidence of injury.

The hearing officer is the sole judge of the weight and the credibility to be given the evidence. Section 410.165(a). The hearing officer resolved the disputed issues in the carrier's favor. While the claimant argued a different interpretation of the evidence, we conclude that the hearing officer's determinations are supported by the evidence, and are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 001360, decided July 27, 2000.

As we affirm the hearing officer's injury determination, we likewise affirm his disability determination. As a matter of law, the claimant must have sustained a compensable injury in order to have disability therefrom. See, Section 401.011(16).

The hearing officer's decision and order are affirmed.

The official name of the carrier is **ROYAL INSURANCE COMPANY OF AMERICA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICES COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Robert W. Potts
Appeals Judge